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10/067,428	02/07/2002	Masaki Nakai	10270.0001/P001	7889
7590 02/11/2008 DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP Steven I. Weisbord 41st Floor 1177 Avenue of the Americas New York, NY 10036-2714			EXAMINER	
			OYEBISI, OJO O	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/067,428	NAKAI, MASAKI
	Examiner OJO O. OYEBISI	Art Unit 3694

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 21 November 2007.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-38 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-38 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/0256/06)  
 Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_

**DETAILED ACTION**

In the amendment filed on 11/21/07, the following have occurred: claims 1, 3, 4,

5, 7, 12, 14, 25 and 37 have been amended and claims 1-38 are still pending.

Applicant's amendment has necessitated the withdrawal of the rejection under 35 U.S.C 112<sup>th</sup> first paragraph.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-38 are rejected under 35 U.S.C. 102(e) as being anticipated by Nishimoto ( PUB NO.: 2002/0143648).

**Re claim 1.** Nishimoto discloses an online shopping settlement method comprising: detecting by a communication common carrier an order forwarded from a user terminal to a Web server providing online shopping services slip (i.e., order data, see fig. 16 element s100, also see paras 0100-0101) and detecting an order confirmation slip that confirms receipt of said order slip forwarded from said Web server to said user terminal (i.e., order confirmation data, see fig. 17 element s200, also see paras 0104-0109), said communication common carrier collecting the price of said online shopping services as communication charges,

for transactions for which said order slip and order confirmation slip are prepared, to collect charges that should be paid by said user terminal to said Web server (see fig.19 elements s406, s408, and s410, also see fig.6, also see paras 0110).

**Re claim 2.** Nishimoto further discloses an online shopping settlement method that is a settlement method for an online shopping system comprising a user terminal, an Internet service provider connected to said user terminal via a network of a communication common carrier providing communication services to said user terminal and a Web server connected to said Internet service provider via the Internet providing online shopping services for said user terminal (see fig. 1), which settlement method includes: (a) a step for detecting an order slip forwarded from said user terminal to said Web server and the corresponding order confirmation slip for confirming receipt of said order slip forwarded from said Web server to said user terminal (see fig. 16 and 17); (b) a step for recording said order slip and order confirmation slip thus detected (see paras 0012); and (c) a step wherein said communication common carrier that provides a communication service to said user terminal and collects the price therefor as communication charges, acts as a substitute in respect of a transaction for which the requisite pair of order slip and order confirmation slip are prepared and which transaction is recorded, to collect charges that should be paid by said user terminal to said Web server (see fig. 19 elements s406, s408, and s410, also see fig.6).

**Re claims 3, 4-5.** Nishimoto further discloses an online shopping settlement method according to claim 2, which uses a port number for online shopping set

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for said order slip and order confirmation slip for sending and receiving said order slip and order confirmation slip between said user terminal and said Web server respectively and wherein (i.e., header. Note the message header usually comprises the port number and the ip addresses of the sending host and the destination host, see fig. 7, 9, 11 and 12) at said step (a) of the settlement method further includes: a packet transferring from said Internet service provider to the Internet with an online shopping port number is detected as being said order slip and a packet coming into said Internet service provider from the Internet with has an online shopping port number is detected as being said order confirmation slip (see fig.16 and 17).

**Re claims 6 and 7.** Nishimoto further discloses an online shopping settlement method wherein is also included a step (d) that establishes an account-subscriber table holding a list of the relationship between the account name allocated to said user terminal by said Internet service provider and the subscriber line number of said user terminal, that accesses said account-subscriber table using the account name of said user terminal that connected to the Internet service provider to retrieve the subscriber line number and then certifies said user terminal that connected to said Internet service provider through checking conditions of said subscriber line (see fig.5).

**Re claims 8, 9-11.** Nishimoto an online shopping settlement method wherein is also included a step (d) that establishes an account-caller table holding a list of the relationship between the account name allocated to said user terminal by said Internet service provider and the calling telephone number of said user

terminal, and certifies said user terminal connected to said Internet service provider through checking whether or not the combination of the account name of said user terminal connected to said Internet service provider and the calling telephone number is registered in said account- caller table (see fig.5)

**Re claims 12, 13.** Nishimoto an online shopping settlement method that at said step (c) calculates the online shopping charges that should be collected from said user based on said order slip and order confirmation slip recorded at said step (b) and requests payment together with communication charges when invoicing said user terminal for communication charges (see fig.19 elements s406, s408, and s410, also see fig.6)

**Re claim 14.** Nishimoto further discloses an online shopping settlement system that provides a means for collecting charges in substitute, which means provides an order slip monitoring means for detecting an order slip forwarded from a user terminal to said Web server providing online shopping services and detecting the corresponding order confirmation slip forwarded from said Web server to said user terminal for confirming receipt of said order slip (see fig. 16 and 17), provides an order slip recording means for recording an order slip and order confirmation slip detected by said order slip monitoring means (see paras 0012), which means for collecting charges in substitute is for use by a communication common carrier that provides a communication service to said user terminal and collects the price as communication charges, and which means for " collecting charges in substitute acts as a substitute, in respect of a transaction for which the requisite pair of order slip and order confirmation slip are prepared and recorded

in said order slip recording means, to collect charges that should be paid by said user terminal to said Web server (see fig. 19 elements s406, s408, and s410, also see fig.6).

**Re claim 15.** Nishimoto further discloses an online shopping settlement system that is a settlement system of an online shopping system comprising a user terminal, an Internet service provider connected to said user terminal via a network of a communication common carrier providing communication services to said user terminal and a Web server connected to said Internet service provider via said Internet which server provides online shopping services to said user terminal (see fig. 1 ), which settlement system includes: an order slip monitoring means for detecting an order slip forwarded from said user terminal to said Web server and detecting the corresponding order confirmation slip forwarded from said Web server to said user terminal for confirming receipt of said order slip (see fig. 16 and 17); and an order slip recording means for recording said order slip and order confirmation slip detected by said order slip monitoring means (see paras 0012),i and a settlement means for collecting charges in substitute that is a means for use by said communication common carrier which means acts as a substitute in respect of a transaction for which said requisite pair of order slip and order confirmation slip are prepared and recorded in said order slip recording means, to collect charges that should be paid by said user terminal to said Web server (see fig.19 elements s406, s408, and s410, also see fig.6).

**Re claims 16, 17-18.** Nishimoto further discloses an online shopping settlement

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system wherein the configuration is such that a port number for online shopping especially set for said order slip and order confirmation slip is used, facilitating the sending and receiving of said order slip and order confirmation slip between said user terminal and said Web server (i.e., header. Note the message header usually comprises the port number and the ip addresses of the sending host and the destination host, see fig. 7, 9, 11 and 12), and wherein said order slip monitoring means provides a means for detecting those packets among packets going out from said Internet service provider to the Internet which have an online shopping port number as being an order slip and detecting those packets among packets coming into said Internet service provider from the Internet which have an online shopping port number as being an order confirmation slip (see fig. 11, 12, 16 and 17)

**Re claims 19, 20.** Nishimoto further discloses an online shopping settlement system that provides an account-subscriber table holding a list of the relationship between the account name allocated to said user terminal by said Internet service provider and the subscriber line number of said user terminal, and that provides a subscriber certification means that receives from said Internet service provider the account name of said user terminal that connected to said Internet service provider, accesses said account- subscriber table and retrieves the appropriate subscriber line number and through checking the condition of that subscriber line, certifies said user terminal connected to said Internet service provider (see fig.5).

**Re claims 21, 22-24.** Nishimoto further discloses an online shopping settlement

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system according that provides an account-caller table holding a list of the relationship between the account name allocated to said user terminal by said Internet service provider and the calling telephone number of said user terminal, and that provides a subscriber certification means that receives from said Internet service provider, the account name of said user terminal that connected to said Internet service provider and the calling telephone number, and through checking whether or not the combination of the account name of said user terminal connected to said Internet service provider and the calling telephone number is registered in said account-caller table, certifies said user terminal that connected to said Internet service provider (see fig.5)

**Re claims 25, 26.** Nishimoto further discloses an online shopping settlement system wherein said settlement means provides a means for calculating the online shopping charges that should be collected from said user based on said order slip and order confirmation slip recorded by said order slip recording means and requests payment together with communication charges when invoicing said user terminal for communication charges (see fig.19 elements s406, s408, and s410, also see fig.6)

**Re claim 27.** Nishimoto further discloses an online shopping settlement program operating a computer forming a settlement system of an online shopping system that includes a user terminal, an Internet service provider connected to said user terminal via a network of a communication common carrier providing communication services to said user terminal and a Web server connected to said Internet service provider via the Internet which server provides online

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shopping services to said user terminal, such that said computer functions as: an order slip monitoring means for detecting an order slip forwarded from said user terminal to said Web server and detecting the corresponding order confirmation slip forwarded from said Web server to said user terminal for confirming receipt of said order slip (see fig. 16 and 17); an order slip recording means for recording said order slip and order confirmation slip detected by said order slip monitoring means (see paras 0012); and a settlement means for collecting charges in substitute that is a means for use by said communication common carrier which means acts as a substitute in respect of a transaction for which the requisite pair of order slip and order confirmation slip are prepared and recorded in said order slip recording means, to collect charges that should be paid by said user terminal to said Web server (see fig. 19 elements s406, s408, and s410, also see fig.6).

Re claims 28, :29-30. Nishimoto further discloses an online shopping settlement program facilitating a configuration wherein a port number for online shopping especially set for said order slip and order confirmation slip is used, facilitating the sending and receiving of said order slip and order confirmation slip between said user terminal and said Web server (i.e., header. Note the message header usually comprises the port number and the ip addresses of the sending host and the destination host, see fig. 7, 9, 11 and 12), and facilitating said order slip monitoring means providing a means for detecting those packets among packets going out from said Internet service provider to said Internet which have an online shopping port number as being an order slip and detecting those packets among packets coming into said Internet service provider from said Internet

which have an online shopping port number as being an order confirmation slip (see fig. 11, 12, 16 and 17).

**Re claims 31, 32.** Nishimoto further discloses an online shopping settlement program that operates said computer such that said computer provides an account-subscriber table holding a list of the relationship between the account name allocated to said user terminal by said Internet service provider and the subscriber line number of said user terminal, and such that said computer functions as a subscriber certification means that receives from said Internet service provider the account name of said user terminal that connected to said Internet service provider, accesses said account-subscriber table and retrieves said appropriate subscriber line number and through checking the condition of that subscriber line, certifies said user terminal connected to said Internet service provider (see fig5)

**Re claims 33-36.** Nishimoto further discloses an online shopping settlement program facilitating operations such that said subscriber certification means provides an IP-subscriber table that stores the relationship between the IP address allocated to said user terminal from said Internet service provider and said subscriber line number while said user terminal is connected to said Internet service provider, and facilitating operations such that said order slip recording means does not record an order slip from among those order slips detected by said order slip monitoring means for which the subscriber line number corresponding to the source IP address is not registered in said IP-subscriber table and does not record an order confirmation slip from among those order

confirmation slips detected by said order slip monitoring means for which the subscriber line number corresponding to the IP address of said user terminal that is the destination is not registered in said IP-subscriber table (see fig.5)

**Re claims 37 and 38.** Nishimoto further discloses an online shopping settlement program facilitating operations such that said settlement means provides a means for calculating the online shopping charges that should be collected from said user based on said order slip and order confirmation slip recorded by said order slip recording means and requests payment together with communication charges when invoicing said user terminal for communication charges (see fig. 19 elements s406, s408, and s410, also see fig.6).

***Response to Arguments***

Applicant's arguments filed 11/21/07 have been fully considered but they are not persuasive. The applicant argues in substance that the primary reference, Nishimoto, fails to disclose the language of claim 1 i.e., an order slip forwarded from a user terminal to a Web server providing online shopping services and detecting an order confirmation slip that confirms receipt of said order slip forwarded from said Web server to said user terminal, communication common carrier collecting the price of said online shopping services as communication charges. Contrary to the applicant's assertion, Nishimoto discloses an order slip forwarded from a user terminal to a Web server providing online shopping services (i.e., The user of mobile telephone 200 views a catalog or the like for online shopping, and determines the article number of the article, which the user intends to purchase. The user of mobile telephone 200 enters the

determined article number and the quantity via console 252 of mobile telephone 200. The user of mobile telephone 200 requests via console 252 the sending of the order data to server 100. Mobile telephone 200 reads out the identification number stored in storing portion 240, and sends the order data (FIG. 7) including the identification number and the telephone number to server 100. When server 100 receives the order data (FIG. 7) from mobile telephone 200 (YES in S100), server 100 reads out the user ID from the user database (FIG. 5) based on the identification number included in the received order database. If the user in question is already registered (YES in S104), the name and address of the user, who sent the order data, are read out from the user database (FIG. 5) based on the identification number (S108). Server 100 prepares transfer data (FIG. 8) based on the read name and address of the user (S110), and sends the transfer data (FIG. 8) to computer 300 of the online shopping dealer (S112), **see paras 0100-0101**.

Nishimoto further discloses detecting an order confirmation slip that confirms receipt of said order slip forwarded from said Web server to said user terminal (i.e., The user of mobile telephone 200, who received the order confirmation data (FIG. 9), confirms the contents of the order sent by himself/herself from the contents displayed on display 254 of mobile telephone 200. If the displayed contents are correct, the user enters into mobile telephone 200 the information indicating that the contents of the order confirmation data are correct. The user requests mobile telephone 200 to send the order confirmation data (FIG. 10). Mobile telephone 200 sends the order confirmation response

data to server 100. [0105] When server 100 receives the order confirmation response data (FIG. 10) from mobile telephone 200 (YES in S206), it sends the received confirmation response data to computer 300 of the online shopping dealer. Computer 300 of the online shopping dealer, which received the transfer data (FIG. 8) from server 100, prepares the delivery request data (FIG. 11) based on the ordered article number, quantity, address and name included in the transfer data. Computer 300 of the online shopping dealer sends this delivery request data to computer 400 of the shipping agent. Computer 400 of the shipping agent, which received the delivery request data (FIG. 11) from server 100, sends the delivery confirmation data (FIG. 12) to server 100. When server 100 receives the delivery confirmation data from computer 400 of the shipping agent (YES in S300), it reads out the mail address of the user based on the user ID included in the received data (S302). Server 100 sends the delivery confirmation data (FIG. 12) to the read address. In mobile telephone 200 which has received the delivery confirmation data (FIG. 12), the scheduled delivery date and time are displayed on display 254 of mobile telephone 200. The user of mobile telephone 200 recognizes the scheduled delivery date and time thus displayed, and enters, as the delivery confirmation response information, the data to the effect that the user accepts the scheduled delivery date and time. The user of mobile telephone 200 requests the sending of delivery confirmation response data (FIG. 13). When server 100 receives the delivery confirmation response data from mobile telephone 200 (YES in S306), it

sends the received delivery confirmation response data to computer 400 of the shipping agent (S308), **see paras 0104-0109**).

Lastly, Nishimoto further discloses communication common carrier collecting the price of said online shopping services as communication charges (i.e., **the calculating circuit calculates the sum of money to be charged to the user by adding the price of the article to the communication charge**). The charged sum of money including the communication charge and the price of the article can be calculated, see paras 0016 of Nishimoto).

#### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to OJO O. OYEBISI whose telephone number is (571)272-8298. The examiner can normally be reached on 8:30A.M-5:30P.M.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JAMES TRAMMELL can be reached on (571)272-6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/Ella Colbert/

Primary Examiner, Art Unit 3694

<b>Application Number</b> 	<b>Application/Control No.</b>	<b>Applicant(s)/Patent under Reexamination</b>
	10/067,428	NAKAI, MASAKI
	<b>Examiner</b> OJO O. OYEBISI	<b>Art Unit</b> 3694